the entire tax upon the residuary legatee is no greater than when the residue is reduced by other expenses of administration. Besides the testator may, if he chooses, direct how the tax may be charged. See *Internal Revenue Law* (1918) sec. 408.

TORTS—CONVERSION—SUIT AGAINST UNITED STATES—TUCKER ACT.—Pursuant to a provision in a contract for public works with the principal contractor, the United States took over property of the plaintiff, a subcontractor, crediting its value to the principal contractor, and renting it to the defendant. The plaintiff sued for conversion. *Held*, that the defendant was liable because the taking by the United States was tortious. *Ball Engineering Co. v. White & Co.* (1919) 39 Sup. Ct. 393.

The Tucker Act permits suit against the United States upon claims arising from contracts, express or implied. 24 St. at L. 505, ch. 359. Claims sounding in tort are not suable. *Bigby v. United States* (1903) 188 U. S. 400, 23 Sup. Ct. 468. In the instant case, however, the suit was brought against the contractor to whom the United States delivered the property. This property was taken without the consent of the plaintiff and without any contract between the plaintiff and the government, either express or implied. Hence, the taking of the property by the United States was tortious even though it was considered the property of the principal contractor and its value credited to him. *Cf. Schillinger v. United States* (1894) 155 U. S. 163, 15 Sup. Ct. 85. Also the act of the defendant in receiving the property was tortious. See 38 *Cyc.* 2054, note 32. Had the United States considered the property to be plaintiff's, it could have been taken by eminent domain. *Brooks v. United States* (1904) 39 Ct. Cl. 494. But no such procedure having been employed, this taking in the instant case was a conversion. The United States was unjustly enriched by this tort, and if it were an individual, it could be sued by the plaintiff in *assumpsit* for the amount of the unjust enrichment. *Rittenhouse v. Knoop* (1894) 9 Ind. App. 126, 36 N. E. 384; *Kleinboke v. Hoffman House* (1906, N. Y.) 50 Misc. Rep. 127, 97 N. Y. Supp. 1122. The suit would be in quasi-contract, often called implied contract, although the facts show that no assent whatever was involved in the transaction. But it seems that the Tucker Act does not permit suit against the United States in quasi-contract as a remedy for the tort. The decisions under this Act are based on the construction that only contracts implied in fact, where the United States has signified its willingness and intention to pay the owner, are within the purview of the Act. *United States v. Berdan Fire Arms Co.* (1894) 156 U. S. 552, 15 Sup. Ct. 420; *Hill v. United States* (1893) 149 U. S. 593, 13 Sup. Ct. 1011. Decisions under previous Acts, almost identical with the Tucker Act, are in accord. *Hollister v. Benedict & B. Burnham Mfg. Co.* (1885) 113 U. S. 59, 5 Sup. Ct. 717. There seems to be little authority that the owner may disregard the tort and proceed against the United States in quasi-contract. See *Great Falls Mfg. Co. v. Attorney General* (1887) 124 U. S. 581, 598, 8 Sup. Ct. 631, 637. However, it would seem that where the owner waives the tort and sues in *assumpsit* that the claim is not one sounding in tort.

UNFAIR COMPETITION—FALSE ADVERTISING—FEDERAL TRADE COMMISSION.—The Federal Trade Commission found that the petitioner who was engaged in interstate commerce had been guilty of unfair competition in selling and advertising for sale sugars, teas, and coffees under representations that it had obtained special price concessions because of its large purchasing power and quick moving market. The petitioner was ordered by the commission to stop

these unfair methods of competition, particularly in regard to false advertising. The petitioner was also ordered to stop selling sugar at less than cost. The petitioner brought this bill in equity and prayed that the commission's injunction be declared vacated, because the petitioner had ceased these practices two years before, and because the act which created the Federal Trade Commission was unconstitutional and void; but if valid, it had not been infringed by these practices. *Held,* that the injunction should be modified to allow the petitioner to sell sugar at any price. Abschuler, J. *dissenting. Sears, Roebuck & Co. v. Federal Trade Commission* (1919, C. C. A. 7th) 258 Fed. 307.

It seems that the Act creating the Federal Trade Commission would be declared constitutional and valid, because grants of similar authority to individuals and bodies have been so held. *Union Bridge Co. v. United States* (1906) 204 U. S. 364, 27 Sup. Ct. 367; *Pennsylvania R. R. Co. v. International Coal Co.* (1912) 230 U. S. 184, 33 Sup. Ct. 893; *National Pole Co. v. Chicago & N. W. Ry. Co.* (1914, C. C. A. 7th) 211 Fed. 65. The petitioner's practices were clearly against public policy, and therefore infringements of this Act. In early law, there was no such remedy; and advertisements which injured one's business, but not one personally, were not actionable either at law or in equity. *Nonpareil Cork Mfg. C. v. Keasbey & Mathison Co.* (1901, C. C. E. D. Pa.) 108 Fed. 721; *White v. Mellin* (H. L.) [1895] A. C. 154. *Evans v. Harlow* (1844, Q. B.) Ad. & E. 624. However, business morals finally made themselves felt, and recovery was allowed against one who made false and malicious disparagement of another's goods. *Western Counties Manure Co. v. Lawes Chemical Co.* (1874) L. R. 9 Exch. 218. Injunctions against false advertising were eventually issued. *Thomas v. Williams* (1880) 14 Ch. D. 864; *Liebig's Co. v. Anderson* (1886) 55 L. T. Rep. N. S. 206. But goods may be sold at any price one may elect, and the court should not inquire into his motives. *Oyello v. Worsley* (1898) 1 Ch. 274; see *Allen v. Flood* (H. L.) [1898] A. C. 1. Cessation of unfair practices prior to the date of the trial is not an equitable ground for vacating an injunction, when at the time of the trial, the petitioner was still alleging that the Federal Trade Commission Act was unconstitutional and void, and that even if valid, there was no infringement by his acts. *Goshen Mfg. Co. v. Myer's Mfg. Co.* (1916) 242 U. S. 202, 37 Sup. Ct. 105; *Holmes v. Burnett* (1913, N. D. Ill.) 206 Fed. 66. This decision seems to point out that advertising and free competition are being further and further restrained. For an excellent discussion of the meaning of unfair competition, see Montague, *Unfair Methods of Competition* (1916) 25 YALE LAW JOURNAL, 20; Haines, *Efforts to Define Unfair Competition* (1919) 29 *ibid.* 1.

WILLS—CONTRACT TO DEVISE—EFFECT OF SUBSEQUENT MARRIAGE.—The plaintiff alleged that he had conveyed to his stepmother, then unmarried, certain land in consideration of her promise to devise this land to him on her death; that she had made a holographic will devising such land to him, but had later married the defendant, her administrator, who was appointed upon a petition alleging that the stepmother died intestate. The plaintiff asked that the defendant be decreed to hold the property in trust for him. *Held,* that although under the California statute the subsequent marriage revoked the will, the contract to devise was enforceable in equity, and the complaint stated a good cause of action. *Rundell v. McDonald* (1919, Calif. App.) 182 Pac. 450.

Contracts to devise have generally been enforced in equity. *Lawrence v. Prosser* (1917, Ch.) 88 N. J. Eq. 43, 101 Atl. 1040; *Steinberger v. Young* (1917) 175 Calif. 81, 165 Pac. 432. But such relief has been refused where unjust results would follow. *Sargent v. Corey* (1917) 34 Calif. App. 193, 166 Pac.